

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

DAVID L. JOHNSON JR.,

8:09CV356

Plaintiff,

v.

**MEMORANDUM  
AND ORDER**

DOUGLAS COUNTY MEDICAL  
DEPARTMENT,

Defendant.

This matter is before the court on Plaintiff's request for the appointment of counsel. (Filing No. [23](#) at CM/ECF p. 4.) In [Davis v. Scott, 94 F.3d 444, 447 \(8th Cir. 1996\)](#), the Eighth Circuit Court of Appeals explained that "[i]ndigent civil litigants do not have a constitutional or statutory right to appointed counsel. . . . The trial court has broad discretion to decide whether both the plaintiff and the court will benefit from the appointment of counsel . . . ." *Id.* (quotation and citation omitted). The court has carefully considered Plaintiff's request and finds that the appointment of counsel is warranted here and that both Plaintiff and the court will benefit from such appointment.

IT IS THEREFORE ORDERED that:

1. With thanks for accepting the appointment, D.C. "Woody" Bradford is hereby appointed to represent Plaintiff. The Clerk of the court shall provide Mr. Bradford with a copy of this Memorandum and Order.

2. Mr. Bradford shall promptly enter his appearance in this matter.

3. Upon the filing of Mr. Bradford's appearance, this case will be removed from the pro se docket. At that time, Magistrate Judge Thalken will take on the

responsibility of pretrial management and this matter should be reassigned to Magistrate Judge Thalken. There is no change to the assigned District Judge.

4. No later than June 30, 2010, Mr. Bradford shall file a second amended complaint, raising whatever issues he deems appropriate. Upon the filing of a sufficient second amended complaint, service will occur and this matter will be progressed.

5. Upon the entry of Mr. Bradford's appearance, the Clerk of the court shall immediately pay the sum of \$1,000 to Mr. Bradford.

6. A second and the last installment of \$1,000 shall become due and payable upon the entry of judgment in the district court or upon an order terminating Mr. Bradford's service as Plaintiff's attorney.

7. Mr. Bradford may incur reasonable expenses when representing Plaintiff in accordance with parts III(A), VI(C), VI(E), VI(F), VI(G), VI(H), and VI(I) of the *Amended Plans for Administration of the Federal Practice Funds and Federal Practice Committee* (available at <http://www.ned.uscourts.gov/pom/crtplans/index.html>). See also NEGenR 1.7(g) and NECivR 54.3-54.4.

8. If this suit results in an award of attorney fees pursuant to 42 U.S.C. § 1988, Mr. Bradford shall reimburse the Federal Practice Fund from that award for the lesser amount of (a) the attorney's fee and expenses authorized in this order or (b) the attorney's fee and expense awarded pursuant to 42 U.S.C. § 1988. He shall retain the greater of those two amounts.

9. The Clerk of the court shall provide Plaintiff and Magistrate Judges Thalken and Zwart with a copy of this Memorandum and Order.

10. Plaintiff has previously been granted leave to proceed in forma pauperis. (Filing No. [16](#).) The Motion for Leave to Proceed In Forma Pauperis (filing no. [24](#)) is therefore denied as moot.

DATED this 14<sup>th</sup> day of May, 2010.

BY THE COURT:

s/ Joseph F. Bataillon  
Chief United States District Judge

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